



AF/IFW

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Noki Previously Taxed
April 2 2007.

Mr Donald Hajec
Director
Technology Center 3600
USPTO
Fax: 571-273-8300 (gen)
Fax: 571-273-5150

Dear Sir,

RE: APPLICATION NO 09/534,233
MATTER: NOTICE OF FEE DEFICIENCY MAILED JAN 4 2007 AND FEE
PAYABLE UNDER MPEP 1204.01

I am the applicant for the Application 09/534,233 and I am writing to seek your determination on the reading of MPEP 1204.01 as to whether a fee is necessary to re-instate a Notice of Appeal for the same application more than one year later.

The Facts

1. I submitted a Notice of Appeal in Nov 2005 for the above application together with \$250 and a Pre-Appeal Brief Request for Review.
2. Subsequently, it was decided by the Pre-Appeal Conference Committee to request the examiner to re-open my application for prosecution. There was no Appeal Brief submitted to the Board of Appeal and consequently as it must, no decision made by said Board.
3. I submitted a Notice of Appeal in Dec 2006 for the same application again but without the \$250 and a Pre-Appeal Brief Request for Review.
4. By a letter 'Notice of Fee Deficiency' dated Jan 4 2006 from USPTO, I was asked to pay the amount \$250.
5. On Jan 18, 2007, I called up M/s Barbara Speirson of TC 1600 to register my opposition to said Notice. Barbara is the Supervisor of M/s Gloria Trammell, the latter is the author of said letter. My ground is that MPEP 1204.01 is applicable and hence no fee is payable.
6. I emailed the examiner and his supervisor about this issue on Jan 19, 2007.
7. A petition for this matter was submitted to the Office of Petition Dated 21 JAN

2007. However, the applicant has been informed (unofficially) that this is a matter for the Director.

8. On the Feb 3, 2007 the applicant has paid the amount USD 250 as per 'Notice of Fee Deficiency' dated Jan 4 2006.

The issue for your determination if applicable:

Whether MPEP 1204.01 is applicable to the above matter and if so then to refund the amount US 250 to the applicant.

MPEP 1204.01 provides " If an appellant wishes to reinstate an appeal after prosecution is reopened, appellant must file a new notice of appeal in compliance with 37 CFR 41.31 and a complete new appeal brief in compliance with 37 CFR 41.37. Any previously paid appeal fees set forth in 37 CFR 41.20 for filing a notice of appeal, filing an appeal brief, and requesting an oral hearing (if applicable) will be applied to the new appeal on the same application as long as a final Board decision has not been made on the prior appeal. If, however, the appeal fees have increased since they were previously paid, then appellant must pay the difference between the current fee(s) and the amount previously paid. Appellant must file a complete new appeal brief in compliance with the format and content requirements of 37 CFR 41.37(c) within two months from the date of filing the new notice of appeal. See MPEP § 1205. "

I appreciate and await your response in this matter.

Thank you,

Yours truly,

A handwritten signature in black ink, appearing to be 'Khai Kwan', with a stylized, sweeping flourish extending to the right.

Khai Kwan

Customer Number 023336

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